

Message Text

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TO AMEMBASSY TAIPEI

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COMUSTDC TAIPEI

CINCPAC HONOLULU HI/J141

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SUBJECT: POSITION ON NON-IMPORTATION OF PIRATICAL BOOKS
INTO THE UNITED STATES BY U.S. CITIZENS (MILITARY AND NON-
MILITARY)

REF: (A) STATE 58477 222305Z MARCH 74 (NOTAL)

(B) TAIPEI 5740 130320Z SEPT. 74 (NOTAL)

(C) CINCPAC 260355Z MARCH 74 (NOTAL)

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(F) CINCPAC 260359Z MARCH 74 (NOTAL)

1. FOLLOWING POSITION REGARDING THE NON-IMPORTATION OF PIRATICAL BOOKS INTO THE UNITED STATES BY U.S. CITIZENS (MILITARY AND NON-MILITARY) SHOULD BE GIVEN MAXIMUM DISTRIBUTION:

-- THE GOVERNMENT OF THE REPUBLIC OF CHINA (GROC) IS NOT A PARTY TO ANY INTERNATIONAL COPYRIGHT CONVENTION. ALTHOUGH A BILATERAL COPYRIGHT AGREEMENT IS IN FORCE BETWEEN THE GROC AND THE USG, THE TERMS OF THE AGREEMENT DO NOT CLEARLY REQUIRE THAT THE GROC PROTECT AMERICAN WORKS UNLESS THE WORKS HAVE BEEN DULY REGISTERED IN TAIWAN. THEREFORE, WITHOUT COPYRIGHT REGISTRATION IN TAIWAN, AN UNREGISTERED BOOK OR OTHER WORK IS ARGUABLY IN THE CHINESE PUBLIC DOMAIN AND CAN BE REPRODUCED IN TAIWAN WITHOUT THE AUTHOR

OR ORIGINAL PUBLISHER HAVING ANY RIGHTS IN THESE WORKS.

-- AS A RESULT OF REPRESENTATIONS BY THE DEPARTMENT OF STATE, THE GROC IN MARCH 1960 IMPOSED A BAN AGAINST THE EXPORT FROM TAIWAN OF REPRODUCED COPIES OF PIRATED FOREIGN-LANGUAGE BOOKS WHICH WAS STRENGTHENED IN 1963. THIS BAN REMAINS IN EFFECT. IN ADDITION, U.S. COPYRIGHT LAW AND CUSTOMS ENFORCEMENT REGULATIONS PROVIDE MEANS FOR AMERICAN AUTHORS TO PROTECT THEIR DOMESTIC MARKET AGAINST PIRATICAL IMPORTS (I.E. COPIES OF U.S. COPYRIGHTED BOOKS WHICH ARE REPRODUCED WITHOUT THE AUTHORIZATION OF THE COPYRIGHT OWNER). SECTION 106 OF THE COPYRIGHT LAW (17 U.S.C., SECTION 106) PROHIBITS THE IMPORTATION OF PIRATICAL COPIES OF ANY WORK COPYRIGHTED IN THE UNITED STATES. PURSUANT TO THE COPYRIGHT LAW, ANY AMERICAN AUTHOR OR PUBLISHER MAY, IF HE MEETS CERTAIN REQUIREMENTS, SECURE CUSTOMS PROTECTION AGAINST THE IMPORTATION OF PIRATICAL COPIES OF THE COPYRIGHTED WORK BY RECORDING HIS COPYRIGHT CLAIM WITH THE CUSTOMS SERVICE.

-- THE CUSTOMS SERVICE HAS NO AUTHORITY TO WAIVE THE IMPORT PROHIBITION AGAINST PIRATICAL BOOKS CONTAINED IN THE COPYRIGHT LAW. HOWEVER, THE CUSTOMS SERVICE HAS NOTED THAT, IN PRACTICE, IT IS OFTEN DIFFICULT TO IDENTIFY UNCLASSIFIED

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A PIRATICAL COPY OF A BOOK AND THAT MANY AMERICAN COPYRIGHT OWNERS HAVE FAILED TO RECORD INDIVIDUAL TITLES WITH THE CUSTOMS SERVICE FOR PROTECTION. BUT, SHOULD ANY TITLE BE RECORDED OR SHOULD EVIDENCE SHOW THAT A BOOK IS PIRATICAL, IT WILL BE DETAINED BY CUSTOMS AT U.S. PORTS OF ENTRY. AS AN INDIVIDUAL IN TAIWAN WILL IN ALL PROBABILITY NOT BE AWARE OF WHETHER OR NOT A PARTICULAR TITLE IS RECORDED WITH CUSTOMS OR WHETHER A PARTICULAR BOOK IS

IDENTIFIABLE AS PIRATICAL, IT WOULD BE A MISTAKE TO
PURCHASE PIRATICAL BOOKS IN THE BELIEF THAT THEIR
IMPORTATION INTO THE U.S. IS EITHER LEGAL OR PERMITTED.

2. THIS POSITION REFLECTS THE VIEWS OF THE U.S. CUSTOMS
SERVICE, U.S. COPYRIGHT OFFICE, DEPARTMENT OF DEFENSE
(DALO-TSP-C), DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF
STATE. INGERSOLL

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